

**MCMILLAN RANCH, LOT 1A, AP
MINOR SUBDIVISION**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER:

John Lavey *JAL*

**REVIEWED/
APPROVED BY:**

Renee Van Hoven *RW*

**PUBLIC HEARINGS/
MEETINGS:**

RCPB Public Hearing:	September 20, 2006
Deadline for PB recommendation to BCC:	October 18, 2006
BCC Public Meeting:	October 17, 2006
(Unless PB delays decision)	
Deadline for BCC action (35 working days):	November 13, 2006

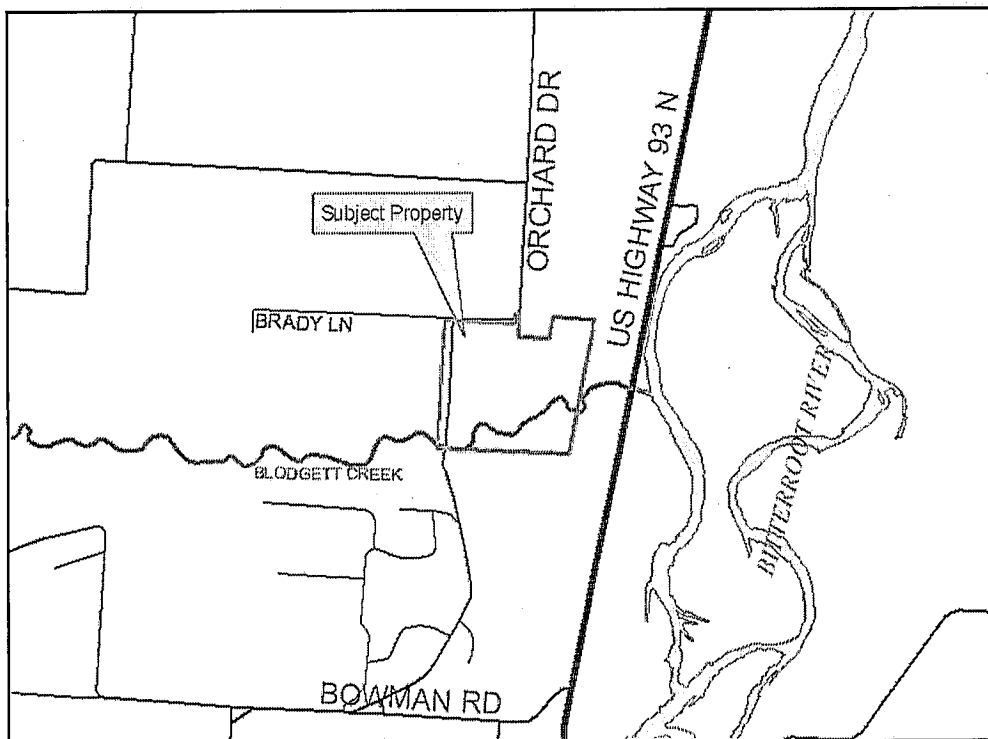
APPLICANT/OWNER:

Ron and Sue Wilkins
630 Orchard Dr.
Hamilton, MT 59840

REPRESENTATIVE:

Shepherd Surveying, 363-1086
Leonard Shepherd
320 Adirondac
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located north of Hamilton off Orchard Drive.



Map 1: Location Map
(Data Source: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Lot 1A of AP #982, located in the SE1/4 of Section 12 T6N, R21W,
P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on August 28,
2006. Agencies were notified of the subdivision and comments
received by the Planning Department are Exhibits A-1 through A-6 of
the staff report.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on
September 5, 2006. Notice of the project was posted on the property.
Property owners adjacent to the subject property were notified of the
subdivision by certified mail, postmarked on August 30, 2006. No
public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Large Lot Residential
North	Large Lot Residential and Industrial
South	Commercial, Donaldson's
East	Residential, Highway/River
West	Agricultural

RAVALLI COUNTY PLANNING BOARD

SEPTEMBER 20, 2006

MCMILLAN RANCH, LOT 1A, AP
FIVE-LOT MINOR SUBDIVISION

RECOMMENDED MOTION

That the McMillan Ranch, Lot 1A, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Effects on Agriculture*)

Notification of Common Access Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain the common accesses and therefore does not assume any liability for improper maintenance or the lack thereof. Common Access Maintenance Agreements for these common accesses were filed with this subdivision and outline what parties are responsible for maintenance and under what conditions. (*Effects on Local Services*)

Notification of Proximity to Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Lake Como Reservoir Dam and/or Painted Rocks Reservoir Dam. A portion of this subdivision may be located within the dam inundation area for the Painted Rocks Dam and the Lake Como Dam. The Painted Rocks Reservoir Dam is owned and operated by the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). The Lake Como Reservoir Dam is owned and operated by the Bitterroot Irrigation District (1182 Lazy J Lane, Corvallis, Montana, 59828), and the safety of the dam is overseen by the Bureau of Reclamation, Dam Safety Division (Montana Area Office, 2950 4th Avenue North, Billings, Montana, 59107). For more information regarding these dams, please contact the above agencies. (*Effects on Public Health and Safety*)

Notification of Proximity to Blodgett Creek. This subdivision is located in close proximity to Blodgett Creek. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the creek channel. It is recommended that property owners obtain flood insurance. (*Effects on Public Health and Safety*)

Notification of Severe Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as severe for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils in question are included as exhibits to this document. (The applicant shall include the exhibits as attachments). (*Effects on Public Health and Safety*)

Notification of Irrigation Ditch/Pipeline Easements. Within this subdivision there are irrigation easements. All downstream water right holders have the right to maintain and repair their ditches/pipelines and diversion structures whenever necessary to keep them in good condition. The filed subdivision plat shows irrigation pipelines and easements on the property. The irrigation district which supply's the water to this property must approve any relocation or alteration (i.e. installation of a culvert) of an irrigation ditch or pipeline. Any act which damages or destroys a ditch/pipeline, interferes with its operation or maintenance in any way, or restricts access to the ditch/pipeline so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easement to maintain the ditch or pipeline. (*Effects on Agricultural Water User Facilities*)

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone as shown on the plat. No new structure, with the exception of fences, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. (*Effects on Natural Environment & Wildlife and Wildlife Habitat*)

Notification of Restricted Area. Within this subdivision there is a restricted area from the top of the bench traversing the center of Lot 1-A-5 to the west and north a distance of 100 feet. No new structure may be constructed in this area and the footprint of the existing home shall not be expanded. No fill may be placed in this area. (*Effects on Public Health and Safety*)

Limitation of Access onto a Public Road. A "non ingress/egress" restriction exists along the Orchard Drive frontage of this subdivision, excepting the Road Department approved approaches for the two common accesses and existing driveway servicing Lot 1A5. All lots within this subdivision must use these approved approaches. This limitation of access may be lifted or amended with approval of the County. (*Effects on Local Services*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at www.fwp.mt.gov. (*Effects on Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- (a) Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

- (b) **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe or rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- (c) **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. It is best not to set garbage cans out until the morning of garbage pickup.
- (d) **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners should be aware that deer might occasionally attract mountain lions to the area.
- (e) **Birdseed** can attract bears. If used, bird feeders should: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- (f) **Pets** should be confined to the house, in a fenced yard, or in an outdoor kennel area, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).
- (g) **Pet food and livestock feed** should be stored indoors or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, raccoons, etc. **When feeding pets or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- (h) **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- (i) Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.
- (j) **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- (k) **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife, and Parks or the U.S. Fish and Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)

- (l) These wildlife covenants cannot be altered or eliminated without consent of the governing body (county commissioners).

Riparian Buffer Zone. There is a no-build/alteration zone within this subdivision that includes Blodgett Creek and its associated riparian area, the lowlands located beneath the bench, and a 100 foot setback from the top of the bench. The following restrictions apply to the no-build/alteration zone: (*Effects on Natural Environment and Wildlife and Wildlife Habitat*)

- a. No building, no new roads or alteration is allowed in the no-build/alteration zone.
- b. No motorized use. Only foot traffic is allowed in the no-build/alteration zone.
- c. It is illegal to modify the streambed or stream banks of a perennial stream without a "310" permit (Montana Natural Streambed and Land Preservation Act). Any stream crossings need to follow any and all local and/or state regulations relative to bridge/culvert construction materials/methods.
- d. Keep livestock out of the no-build/alteration zone. If livestock are allowed in the subdivision, develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. [*not needed if livestock is not allowed in the subdivision*]
- e. Do not cut or remove live or dead vegetation, particularly shrubs and trees. Woody debris (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Woody debris regularly causes bed scour that creates pools where fish reside to feed and seek cover and stores sediment that is used for spawning while providing shade which helps reduce stream temperatures. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- f. Do not plant lawns within the no-build/alteration zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- g. In summary, allow the no-build/alteration zone to remain undisturbed. Do not modify unless such change would help return the area to a natural state.

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community waste water treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (*Effects on Natural Environment*)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so

as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Corvallis Rural Fire District has adopted Fire Protection Standards which require the lot owners to post County-issued addresses at the intersection of the driveways leading to the primary residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services & Effects on Public Health and Safety)*

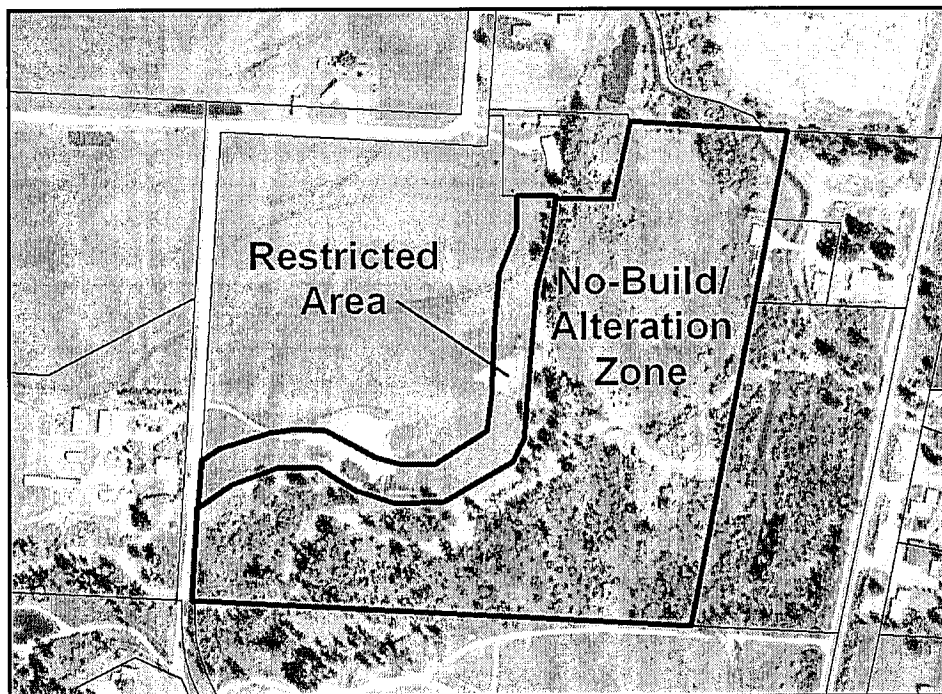
Access Requirements for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6", maximum grade of 6%, and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the Uniform Fire Code. Please contact the Corvallis Rural Fire District at PO Box 13, Corvallis, MT, for further information on the requirements of the Corvallis Rural Fire District and/or the Uniform Fire Code. *(Effects on Local Services & Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written governing body approval shall be required for amendments to provisions of the covenants listed above, that are required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. The final plat shall show a non-ingress/egress zone along the Orchard Drive frontage of the subdivision, excepting the approaches for the two common accesses and driveway, as approved by the Road and Bridge Department. *(Effects on Local Services)*
5. The applicant shall provide evidence that an amount of \$250 per lot has been contributed to the Corvallis School District prior to final plat approval. *(Effects on Local Services)*
6. The applicant shall provide a letter from the Corvallis Rural Fire District stating that they have provided the required 1,000 gallons per minute water supply or 2,500 gallons per minute water storage for fire protection for each lot within this subdivision. Alternatively, the applicant may provide evidence that a \$500 per lot contribution has been made to the Corvallis Rural Fire

District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Effects on Local Services & Effects on Public Health and Safety*)

7. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Effects on Public Health and Safety*)
8. A master irrigation plan that meets the requirements of section 3-2-15 of the Ravalli County Subdivision Regulations, which would include the plat-sized plan and the irrigation agreement, shall be submitted before final plat approval. (*Effects on Agricultural Water User Facilities*)
9. The approach to the common accesses shall be paved a minimum of 20 feet wide from the surface of Orchard Drive back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Road Department, if specified in the approach permit. (*Effects on Local Services*)
10. A no-build/alteration zone shall be shown from the top of the bench traversing the center of Lot 1-A-5 east and south to the property boundary on the final plat. (Map 2) (*Effects on Natural Environment and Wildlife and Wildlife Habitat*)
11. A restricted area shall be shown from the top of the bench traversing the center of Lot 1-A-5 to the west and north a distance of 100 feet. (Map 2) (*Effects on Public Health and Safety*)



Map 2: No-Build/Alteration Zone and Restricted Area Map
(Data Source: Ravalli County Planning Department)

INTRODUCTION

McMillan Ranch, Lot 1A, AP is a five-lot minor subdivision proposed on 38.9 acres. The property is located approximately 1/2 mile north of the City of Hamilton off Orchard Drive. It is located in the Corvallis School District and the Corvallis Rural Fire Districts. Blodgett Creek runs through the property below a bench where the lots are proposed. Substantial wetland and riparian areas are located along the creek side and adjoining land. The average lot size is 7.92 acres. The proposal is for five single family residential lots.

Staff is recommending conditional approval of the subdivision.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on 38.9 acres will result in 5 lots that have an average size of 7.94 acres. One lot is 30.72 acres and the remaining lots average roughly two acres. It is located approximately 1/2 mile from the City of Hamilton in an area of mixed residential and agricultural uses.
2. The *SCS Soil Survey for Ravalli County* identifies a soil type that is listed as Prime Farmland Soil on the property. More than 10% of the property may have Prime Farmland Soil.
3. There are agricultural practices in the vicinity of the property. To mitigate impacts on agricultural practices, a notification of agricultural operations shall be filed with the final plat. (*Condition 1*)

Conclusions of Law:

1. The creation of these lots will diminish the potential agricultural uses on this property and may take a small amount of Prime Farmland Soils out of production.
2. The property is located in close proximity to the City of Hamilton in a transitional area between the higher density town lots and agricultural land. This transitional area has a mixture of uses including large lot residential, commercial, and agricultural. Loss of agricultural land in this location may help to protect agricultural land further out from existing towns by providing development similar to the surrounding density.
3. With the mitigating conditions, impacts of this subdivision on surrounding agricultural practices should be minimized.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. According to the application, the property has water rights from Blodgett Creek and a preliminary Master Irrigation Plan is included in the application. Each lot will be allocated a certain amount of water to be conveyed by the irrigation pipelines and easements as proposed in the irrigation plan. To mitigate impacts on agricultural water user facilities, a final Master Irrigation Plan including the requirements of section 3-2-15 shall be submitted prior to final plat approval. (*Condition 8*) Evidence that irrigation facilities have been installed is a requirement of final plat approval.
2. As a requirement of final plat approval, the Ravalli County Subdivision Regulations require that irrigation easements/rights-of-way located on the property be shown on the final plat. In order to mitigate impacts on agricultural water user facilities, a notification of these easements shall be included in the Notifications Document. (*Condition 1*)
3. If irrigation ditches are to be altered or relocated, written authorization from downstream users is required for final plat approval, per Section 3-3-4(c)(25) of the Ravalli County Subdivision Regulations.

Conclusion of Law:

Impacts to agricultural water user facilities will be minimized through the mitigating conditions and requirements of final plat approval.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. There are five proposed single family residential lots within this subdivision and it is estimated at build-out this subdivision will generate a total of 40 vehicular trips per day, assuming 8 trips per day per single-family dwelling.
2. In an email dated August 31, 2006, David Ohnstad, County Road Supervisor, stated that the most likely route to the subdivision from US Highway 93 would be Bowman Road to Orchard Drive (Exhibit A-3). It is unknown if Orchard Drive or Bowman Road, County-maintained roads, meet County standards and if not, the applicant will be required to pay the pro-rata share of the cost to improve the portions of Orchard Drive and Bowman Road that lead to the subdivision from US Highway 93.
3. An existing driveway will serve Lot 1-A-5 and two common accesses are proposed to serve Lots 1-A-1 through 1-A-4. The approaches are required to be approved by the Road Department prior to final plat approval.
4. The applicants are proposing a \$250 per lot voluntary contribution to the School District. To mitigate impacts of the subdivision on the School District, the applicant shall contribute \$250 per lot to the Corvallis School District prior to final plat approval. (*Condition 5*)
5. To mitigate impacts on local services, the approach to the common access shall be paved a minimum of 20 feet wide from the surface of Orchard Drive back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Road Department, if specified in the approach permit. (*Condition 9*)
6. To mitigate impacts on the local road system, the final plat shall show a no ingress/egress zone along the Orchard Drive frontage of the subdivision, excepting the Ravalli County Road and Bridge Department (RCRBD) approved approach for the common accesses. A notification of this limitation of access shall be included in the Notifications Document. (*Conditions 1 & 4*)
7. Preliminary common access maintenance agreements for both common accesses were included in the application packet. The final plat application packet is required to include the common access maintenance agreements that include the provisions of Section 3-2-18 of the Subdivision Regulations. To mitigate impacts on local services a notification of the common access maintenance agreements shall be included in the Notifications Document filed with the final plat. (*Condition 1*)
8. Installation of all infrastructure improvements is required to be completed prior to final plat approval, which includes construction of the common accesses, and installation of any irrigation infrastructure.
9. Individual wells and septic systems are proposed to serve the lots. (*See Natural Environment*)
10. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (*Conditions 2 & 3*)
11. Bitterroot Disposal provides service to this site.
12. The subdivision is located within the Corvallis Rural Fire District. The Corvallis Rural Fire District has provided general comments on subdivision proposals, indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. Conditions of approval will meet the recommendations of the Corvallis Rural Fire District. (*Conditions 2, 6, & 7*)
13. The Ravalli County Sheriff's Office provides law enforcement services to this area.
14. Adequate public services are available to the subdivision.

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. In a letter dated January 23, 2006, the Ravalli County Floodplain Administrator suggested the applicant label the area below the bench traversing the center of Lot 1-A-5 as a no-build/alteration zone to protect sensitive wetland and riparian vegetation (Exhibit A-1). As a requirement of final plat approval, the area below the bench shall be labeled as a no-build/alteration zone. A no-build/alteration zone is defined in the Subdivision Regulations, recorded August 25, 2000, as an area in which no building or structure may be constructed or otherwise placed and the vegetation is retained in its natural condition. (*Conditions 1 & 10*)
2. Individual wells and septic systems are proposed for lots within this subdivision. The Environmental Health Department stated adequate information has been submitted to their office for local subdivision review to occur (Exhibit A-2). A Certificate of Subdivision Plat Approval from Montana Department of Environmental Quality is required to be submitted with the final plat.
3. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (*Condition 2*)
4. An approved noxious weed and vegetation control plan is required to be filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (*Condition 2*)

Conclusion of Law:

Impacts from this subdivision on the natural environment will be minimized with the requirements for final plat approval and imposition of mitigating conditions.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the Montana Fish, Wildlife, and Parks (FWP) identified big game winter range and there are no species of special concern listed in the vicinity of the property.
2. Blodgett Creek traverses the property and the main stem of the Bitterroot River is located approximately 650 feet to the east. The significant amount of wetlands and riparian areas associated with these features most likely provide wildlife habitat. FWP did not comment on this subdivision, but provided comments for a similar proposal along a creek. To mitigate impacts on wildlife and wildlife habitat, living with wildlife and riparian provisions shall be included in the covenants and a no-build alteration zone from the top of the bench east and south to the property boundary shall be shown on the final plat. (*Conditions 2 and 10*)

Conclusion of Law:

With the mitigating conditions, there will be no effects on wildlife and wildlife habitat.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. In a letter dated January 23, 2006, the Ravalli County Floodplain Administrator states that the subdividers recently applied for a permit from the Bitterroot Conservation District to stabilize the bank on proposed Lot 1-A-5. (Exhibit A-1) Given the instability of the bank, a restricted

area from the top of the bench traversing the center of Lot 1-A-5 to the west and north a distance of 100 feet shall be shown on the final plat (Map 2) and a notification of the restricted area shall be included in the Notifications Document. (*Conditions 1 & 11*)

2. There is an existing house located on Lot 1-A-5 that would be within the restricted area created through this subdivision. Because the house is existing, it will be allowed to remain, but the footprint shall not be expanded. Further, no fill shall be placed in the restricted area nor any new structure constructed. (*Condition 11*)
3. A portion of the property may be located within the Lake Como Dam and Painted Rocks Dam Inundation Area. The mapping of dam inundation areas is based on coarse data and should only be used for general planning purposes. To inform future property owners and to mitigate potential impacts of the subdivision on public health and safety, a notification of the dam inundation areas shall be included in the Notifications Document filed with the final plat. (*Condition 1*)
4. The preliminary plat and soils map indicate there are soil types on the property that are considered severe for construction of roads and/or buildings. To mitigate potential impacts on public health and safety, a notification of severe soils shall be in the Notifications Document filed with the final plat. (*Condition 1*)
5. There is an inherent hazard associated with creeks that may potentially flood. The Notification Documents shall include a notification of the close proximity of Blodgett Creek and recommend that the future owners obtain floodplain insurance. (*Condition 1*)
6. To mitigate impacts on public health and safety, the subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (*Conditions 2 and 7*)
7. The Conditions that address the Corvallis Rural Fire District's recommendations will mitigate impacts on public health and safety. (*Conditions 2, 6, & 7*)
8. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (*Condition 2*)
9. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants shall include a statement regarding radon exposure. (*Condition 2*)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. This proposed subdivision is not located in a Voluntary Zoning District.
2. There are no existing covenants on the property.

Conclusions of Law:

1. Zoning regulations do not apply to this subdivision.
2. Existing covenants do not apply to this property.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates existing utilities are located along Orchard Drive. Utility easements are required to be shown on the final plat.
2. The proposed subdivision will be served by Northwestern Energy and Qwest Telephone. Utility certificates are a requirement of final plat approval.

Conclusion of Law:

Utility services will be available to this subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

Physical and legal access for this subdivision is proposed via Bowman Road and Orchard Drive, which are County-maintained roads. (*Local Services*)

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, the proposal meets physical and legal access requirements.



Planning Department
215 South 4th Street; Suite F
Hamilton, MT 59840
(406) 375-6530 ph; (406) 375-6531 fax
OG-06-01-86

January 23, 2006

John Horat
Bitterroot Engineering & Design
1180 Eastside Hwy
Corvallis, MT 59828

EXHIBIT A-1

RE: Waiver of Floodplain Analysis for McMillian Ranch Subdivision, AP Lot 1-A

Dear Mr. Horat,

We have completed our review of the waiver request for the requirement of a full floodplain analysis according to Section 3-2-13 of the Ravalli County Subdivision Regulations for the above proposed subdivision. We have determined the following:

1. Churn Creek's Drainage Basin is less than 15 square miles in area and therefore does not require a floodplain analysis.
2. The southern portion of proposed Lots 1-A-1, A-2, A-3, and A-4 of the subject property are separated from Blodgett Creek by over 500 horizontal feet. Blodgett Creek flows through proposed Lot 1-A-5 where a well defined bank exists.
3. The proposed Lots 1-A-1, A-2, A-3, and A-4 are approximately 30 vertical feet above the estimated Blodgett Creek Floodplain, as indicated by John Horat in a letter dated August 22, 2005.
4. Proposed Lot 1-A-5 contains a high bench on the northwest portion of the parcel. The remainder of the parcel contains broad lowlands with wetlands and riparian vegetation.
5. Ron and Sue Wilkins recently applied for a 310 permit (BT066/05) from the Bitterroot Conservation District to stabilize the bank on proposed Lot 1-A-5.

Given the obvious instability of the bank that exists on proposed Lot 1-A-5 and borders Lot 1-A-4 we recommend a 100 foot setback (no build/alteration zone) from the top of the bench. Furthermore, the expansive lowlands on the eastern and southern portions of proposed Lot 1-A-5 should be designated as a no build/alteration zone due to the sensitivity of the existing wetlands and riparian vegetation.

Although the subject property is not located in a designated floodplain, we recommend the property owners obtain flood insurance due to the proximity of each of the creek's estimated 100-year floodplains.

Given the information cited above and the material presented in your application, we believe that it is reasonable to waive the requirement for a full floodplain analysis as outlined in Section 3-2-13. Consequently, your waiver request is granted for this project.

If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Laura Hendrix". The signature is written in black ink and is positioned above the printed name and title.

Laura Hendrix, CFM
Ravalli County Floodplain Administrator

Cc: Correspondence File - General
Renee Van Hoven, Ravalli County Senior Planner

Bitterroot Engineering & Design, Inc.

1180 Eastside Hwy. Corvallis, MT 59828
(406) 961-5634 FAX (406) 961-5654

RECEIVED

AUG 22 2005

To: Laura Forrest, Ravalli County Floodplain Administrator
From: John Horat, PE
Subject: Proposed AP Lot 1-A, McMillian Ranch Subdivision, Hamilton, MT.
Date: 8/20/05

Ravalli County Planning Dept.

IC-05-08-1575

Laura,

Enclosed is the \$200 site review fee for the Floodplain Administrator to conduct an on site visit regarding waiving the requirement for a floodplain study according to the Subdivision Regulations. Enclosed is a reduced copies of a lot layout and a USGS map.

All of the building sites including the existing house are located at least thirty (30) feet above the anticipated 100 year flood event.

If you concur with our request, please provide us with a letter so that we may include it along with the subdivision application.

Please give us a call if you have any questions or need additional information.

Thank you.

SUBDIVISION APPLICATION PACKET CHECKLIST - Water and Sanitation Information Per MCA 76-3-622

Name of Subdivision: Mc MILLAN RANCH, LOT 1A, MSubdivider/Landowner Name(s): WILKINSConsultant Name: BR ENGINEERING**EXHIBIT A-2**Date Received: 5/12/06 Sufficiency Review Due Date:

Yes	No	N/A	Item	Additional Information/Staff comments
			(1) Unless the land division is excluded from review under 76-4-125(2), the subdivider shall submit to the information listed below for proposed subdivisions that will include new water supply or wastewater facilities.	
/			Provide two copies of the following information with a check paid to RCEH for their \$50.00 sufficiency review fee.	
/			(a) Vicinity Map or Plan	
/			(i) The location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:	
/			(A) flood plains	
/			(B) surface water features	
/			(C) springs	
/			(D) irrigation ditches	
/			(E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems	
/			(F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g);	
/			(G) the representative drainfield site used for the soil profile description as required under subsection (1)(d)	
/			(ii) The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities	
/			(b) A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by DEQ.	
/			(c) A drawing of the conceptual lot layout at a scale no smaller than 1" = 200' that shows all information required for a lot layout document in rules adopted by the DEQ pursuant to 76-4-104.	

Yes	No	N/A	Item	Additional Information/Staff comments
/			(d) Evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:	
/			(i) A soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by DEQ.	
/			(ii) Demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer.	
/			(iii) In cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);	
/			(e) For new water supply systems, unless cisterns are proposed, evidence of adequate water availability:	
/			(i) obtained from well logs or testing of onsite or nearby wells;	
/			(ii) obtained from information contained in published hydrogeological reports; <u>OR</u>	
/			(iii) as otherwise specified by rules adopted by DEQ pursuant to 76-4-104;	
/			(f) Evidence of sufficient water quality in accordance with rules adopted by DEQ pursuant to 76-4-104;	
/			(g) A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality.	The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

Morgan J. Full RS

John Lavey

From: David Ohnstad
Sent: Thursday, August 31, 2006 2:17 PM
To: John Lavey
Subject: RE: McMillan Ranch Pro-Rata

Orchard Drive to Bowman Road to U.S. Highway 93 would be the most likely route.

From: John Lavey
Sent: Wednesday, August 30, 2006 1:15 PM
To: David Ohnstad
Subject: McMillan Ranch Pro-Rata

EXHIBIT A-3

David,

The proposed McMillan Ranch, Lot 1A, AP subdivision appears to have two routes that might be used as primary access. I was hoping you would tell me which of the routes would be most likely used for primary access and pro-rata payments. See attached file. Thanks.

John Lavey
Ravalli County Planning Department
215 South 4th St., Suite F
Hamilton, MT 59840

8/31/2006

September 22, 2005

RECEIVED

SEP 26 2005

Ravalli County Planning Dept.
1C-05-09-1784



Leonard Shepherd
Shepherd Survey
320 Adirondac Ave
Hamilton, MT 59840

EXHIBIT A-4

Dear Mr. Shepherd:

RE: McMillan Ranch Lot 1-A

Thank you for the information on the proposed 5-lot McMillan Ranch Lot 1-A subdivision located off Orchard Drive in Hamilton, MT.

Qwest Corporation will provide telecommunications service to this development under the terms and conditions of the Provisioning Agreement for Housing Development (PAHD). This agreement stipulates Qwest will provide the facilities at no charge to the developer/builder as long as the cost does not exceed the cap of \$775 per lot established for the state of Montana. The developer/builder must pay costs in excess of the cap prior to the start of any required construction. Upon receipt of a final plat, the cost of providing service to the development will be determined and provided to the developer/builder.

If you have any additional information or questions please call me on 406-543-2175 or contact the Qwest Developer Contact Group on 1-800-526-3557.

Sincerely,

Dave Smith
Senior Design Engineer
1515 S 14 West
Missoula, MT 59801-4927

cc: Ravalli County Planning
215 S 4th, Suite F
Hamilton, MT 59840

RECEIVED

OCT 03 2005

DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION
MISSOULA WATER RESOURCES REGIONAL OFFICE

Ravalli County Planning Dept.
16-09-00-1819
1610 S. 3RD STREET W., SUITE 103
P.O. BOX 5004



BRIAN SCHWEITZER
GOVERNOR

STATE OF MONTANA

(406) 721-4284
FAX (406) 542-1496

MISSOULA, MONTANA 59806-5004

September 30, 2005

Ravalli County Planning Department
215 South 4th ; Suite F
Hamilton, MT 59840

EXHIBIT A-5

Re: Agency Comment: Proposed Subdivisions

McMillan Ranch Lot A-1, Section 12, T6N R21W

Moiese Estates, Section 12, T9N R20W

Donaker Estates, Section 32 T6N R20W

Riverside Meadows, Section 18, T10N R19W

Dear Ravalli County Planning Office:

This office has received notification of the proposed subdivisions listed above. My comments are limited to potential water right issues. The 2001 Montana Legislature, through HB 340, amended 76-3-504 MCA, modifying how water rights are transferred when a subdivision creates parcels with lot sizes averaging less than five acres. If there are water rights that will be divided between the lots the following requirements apply to these proposed subdivision with lot size averaging less than 5 acres.

The language in 76-3-504 MCA reads as follows:

(9) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(a) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water right to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining water rights from the land;

(b) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(c) reserve and sever all surface water rights from the land;

As part of the subdivision approval process, please inform the developer regarding these options and requirements.

The information provided indicates that the proposed water supply for the homesites will be groundwater from individual wells. This proposal for water supply is not in conflict with the Montana Water Use Act. Groundwater sources with a combined appropriation of a flow rate of 35 gallons per minute or less and an annual volume of 10 acre feet or less are exempt from water right permit requirements. Wells must be physically manifold into the same system to be considered as a combined appropriation. Water right filing requirements for these lower flow rate & volume wells are satisfied with a Notice of Completion of Groundwater Development filed by the landowner with this office within 60 days of well completion and beneficial use of the water.

Have community systems been considered as an alternative for water supply for these subdivisions? Community water systems offer advantages over individual wells.

- A community water system would require the developer to go through the water right permit process. This process requires aquifer testing and analysis and public notice to surrounding water right holders, who would have the opportunity to object to the new water right if they felt they would be adversely affect their water right. With wells that meet the permit exemption there is no public notice process, even though the cumulative effect of all the wells may be similar to a permitted system.
- The community system would offer less opportunity for groundwater contamination due to fewer "holes in the aquifer" and better wellhead protection generally afforded by a community system.
- The individual wells could interfere with each other, depending on pumping rates and aquifer characteristics.
- The community system would be subject to periodic water quality testing, offering assurances to the residents that their water supply meets drinking water standards. There are no testing requirements that I am aware of for single-family wells, even with close proximity to on-site septic systems.

If you have any questions or comments, I can be reached at 721-4284 or e-mail at bischultz@mt.gov.

Sincerely,

Bill Schultz
Regional Manager

John Lavey

From: David Ohnstad
Sent: Tuesday, May 09, 2006 2:53 PM
To: John Lavey
Subject: RE: McMillan Ranch, Lot1A, Approach Permits

EXHIBIT A-6

John -

After reviewing the situation, we have determined that the proposed (two) accesses that have been proposed for this project are acceptable, provided that the design and construction of the accesses conforms to the revised Access Encroachment policy. The project owner will need to coordinate construction activity with Mike Nichols at the RCRBD, 363 - 2733.

David

From: John Lavey
Sent: Wednesday, May 03, 2006 5:07 PM
To: David Ohnstad
Cc: Renee Van Hoven
Subject: McMillan Ranch, Lot1A, Approach Permits

David,

The McMillan Ranch, Lot 1A, AP subdivision is nearly ready to go before the Planning Board. Before doing so, however, I wanted to get a little clarification. The application packet shows two copies of approach permits for the subject property proposing access onto Orchard Drive (See the attached file for copies of the permits and a reduced plat). The application was submitted on January 20, before the Access Encroachment Policy was in place. My question is, with the preliminary permits and application submitted before the Encroachment Policy, would the Road Department support the submittal as it is proposed? Thanks.

John Lavey
Ravalli County Planning Department
215 S. 4th St., Suite F
Hamilton, MT 59840
(406)375-6530
jlavey@ravallicounty.mt.gov

5/9/2006